



# WASHOE COUNTY

"Dedicated To Excellence in Public Service"

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CM/ACM \_\_\_\_\_  
 Finance \_\_\_\_\_  
 DA \_\_\_\_\_  
 Risk Mgt. \_\_\_\_\_  
 HR N/A  
 Comptroller \_\_\_\_\_

## STAFF REPORT

**BOARD MEETING DATE: September 22, 2015**

**DATE:** August 26, 2015  
**TO:** Board of County Commissioners  
**FROM:** Clara Lawson, P.E., PTOE, Licensed Engineer  
 Community Services Department, 328-3603, [clawson@washoecounty.us](mailto:clawson@washoecounty.us)  
**THROUGH:** Dwayne Smith, P.E., Division Director, Engineering and Capital Projects,  
 Community Services Department, 328-2043, [desmith@washoecounty.us](mailto:desmith@washoecounty.us)  
**SUBJECT:** Recommendation to award a bid and approve the Agreement to the lowest responsive, responsible bidder for the Sun Valley – West Second Avenue Sidewalk Project, [staff recommends Spanish Springs Construction, Inc. in the amount of \$396,444]. (Commission District 3.)

### SUMMARY

The Sun Valley – West Second Avenue Sidewalk Project consists of placing a storm drain system and concrete curb, gutter, sidewalk, pedestrian ramps and driveway approaches on the north side of West Second Avenue from Sidehill Drive to Sun Valley Boulevard.

Funding for this project comes from a Community Development Block Grant (CDBG) through the Governor’s Office of Economic Development (GOED) and the Transportation Alternatives Program (TAP) Fund as approved by the Nevada Department of Transportation. Washoe County’s support for this project includes project development and management, engineering design and construction inspection services.

Sealed bids for the Sun Valley – West Second Avenue Sidewalk Project were opened on September 3, 2015. The list of bids received for the project is as follows:

<b>SUN VALLEY – WEST SECOND AVENUE SIDEWALK PROJECT</b>	
<b>Bidder</b>	<b>Amount</b>
Spanish Springs Construction, Inc.	\$396,444
Aspen Development Corp.	\$363,375 *
<b>Engineer’s Estimate</b>	<b>\$377,000</b>

- Aspen Development Corp’s bid was determined to be non-responsive as they were not in compliance with the official County bid document requirements. The bid documents required the contractor to submit, as an attachment to the bid proposal, copies of the project asphaltic concrete mix design. Aspen

Development Corp. did not submit a required project mix design in their bid submittal.

Staff has verified in the System for Award Management Exclusions that no bidder is excluded from receiving federal government contracts as a result of being debarred; thus, none of the bidders is prohibited by NRS 338.017(2) from being awarded a public works contract.

Washoe County Strategic Objective supported by this item: Safe, secure and healthy communities.

### **PREVIOUS ACTION**

On April 14, 2015, the Board of County Commissioners (Board) approved a Cooperative (Local Public Agency) Agreement between Washoe County and the Nevada Department of Transportation to accept a Federal Highway Administration Transportation Alternatives Program subgrant award in the amount of \$200,000. The subgrant award had a matching-fund requirement that the Board authorized to be fulfilled with \$10,526 from the CDBG for the Sun Valley West Second Avenue Sidewalk project. Further, the Board directed the Comptroller's Office to make the necessary budget adjustments.

On August 12, 2014, the Board accepted a Nevada CDBG in the amount of \$205,304 from the Governor's Office of Economic Development for the Sun Valley West Second Avenue Sidewalk project.

On December 13, 2013, the Board approved the submission of several grants, including the West Second Avenue School Sidewalk Project, to the State of Nevada CDBG program for funding consideration.

### **BACKGROUND**

This is the latest in a number of pedestrian safety projects located within the Sun Valley area. These projects have focused on pedestrian amenities including sidewalks, curbs, storm water drainage and street crossings designs, constructed to enhance both the pedestrian safety and enhance the driving public expectations on the roadways. Many of these projects have been located near area schools and Washoe County has designed and constructed these amenities with input from the public, the Safe Routes to Schools area coordinator, and the Sun Valley General Improvement District.

The project will construct sidewalk and drainage facilities on the north side of West Second Avenue from Sidehill Drive to Sun Valley Boulevard. This project will create a continuous sidewalk from Lois Allen Elementary School to Sun Valley Boulevard.

### **FISCAL IMPACT**

The project is funded by a Federal Transportation Alternatives Program (TAP) grant through NDOT (\$200,000) and Nevada CDBG through the Governor's Office of Economic Development (\$205,304). Total budget authority in the amount of \$405,304 is

located in the Capital Improvement Fund 402 in Project PW920546. Both funding sources are reimbursement grants.

**RECOMMENDATION**

It is recommended that the Board of County Commissioners award a bid and approve the Agreement to the lowest responsive, responsible bidder for the Sun Valley – West Second Avenue Sidewalk Project, Project [staff recommends Spanish Springs Construction, Inc. in the amount of \$396,444].

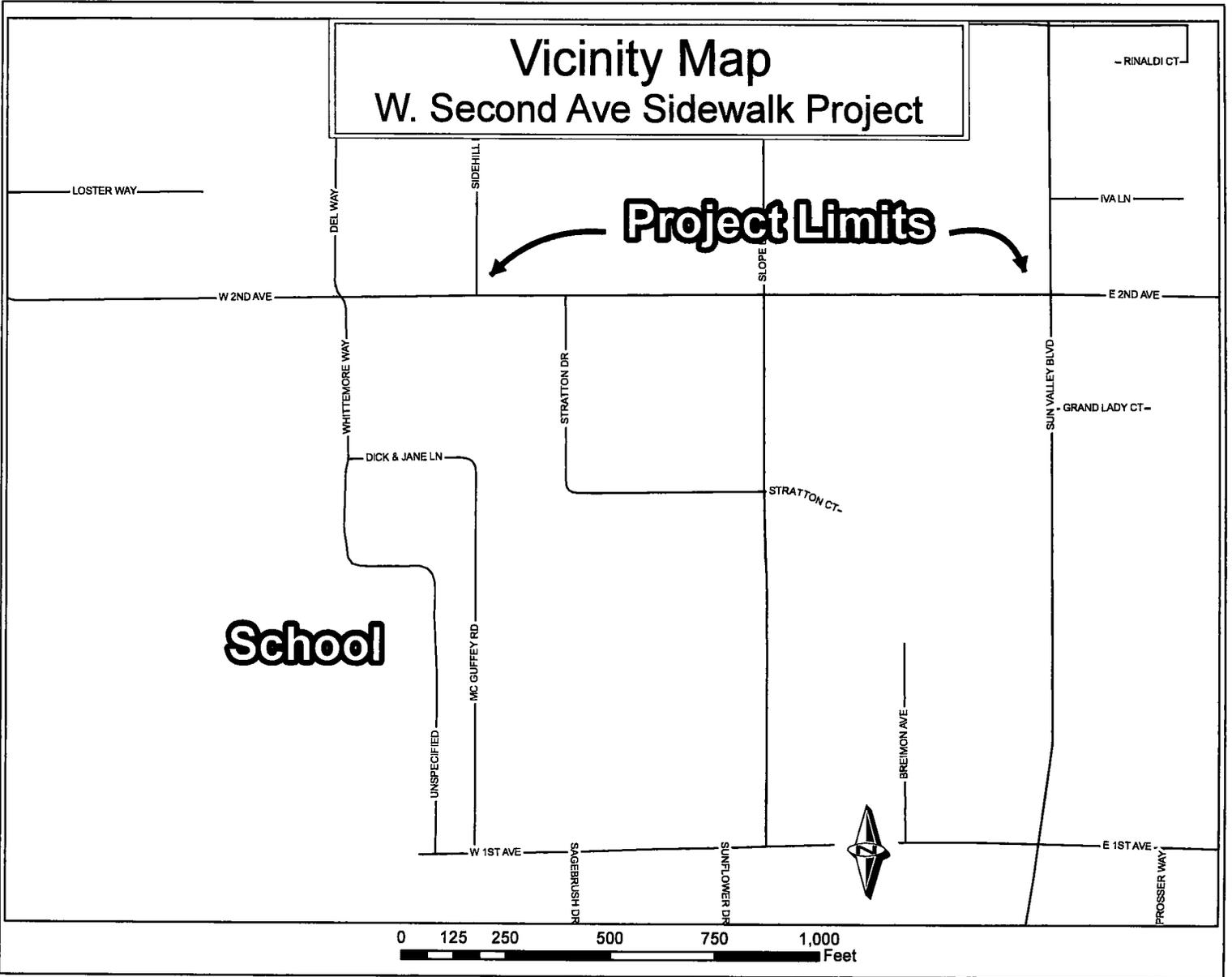
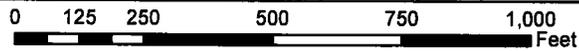
**POSSIBLE MOTION**

Should the Board agree with staff’s recommendation, a possible motion would be. “Move to award a bid and approve the Agreement to the lowest responsive, responsible bidder for the Sun Valley – West Second Avenue Sidewalk Project, Project [staff recommends Spanish Springs Construction, Inc. in the amount of \$396,444].”

# Vicinity Map W. Second Ave Sidewalk Project

**Project Limits**

**School**



**AGREEMENT**  
**SUN VALLEY – WEST SECOND AVENUE SIDEWALK PROJECT**

THIS AGREEMENT (also herein referred to as "Contract"), is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Washoe County, a political subdivision of the State of Nevada, acting through the Washoe County Commissioners hereinafter called "OWNER" and Spanish Springs Construction, Inc., a General Contractor, Nevada State License No. 59511A hereinafter called the "CONTRACTOR".

WITNESSETH:

That the OWNER and the CONTRACTOR, for the consideration hereinafter named, agree as follows:

**Article 1. Scope of Work**

The Contractor shall furnish all of the materials and perform all of the Work described in the Specifications entitled “Sun Valley – West Second Avenue Sidewalk Project”, prepared by the Department of Community Services, which is attached hereto and incorporated herein as one of the Contract Documents identified in Article 7.

**Article 2. Time of Completion**

The Work to be performed under this Agreement shall be completed within Twenty (20) working days of the "Notice to Proceed". Should the Contractor fail or refuse to complete the work within that time, along with any authorized extensions of time, there shall be deducted from monies due him, not as a penalty, but as liquidated damages, three thousand dollars (\$3,000.00) for each additional calendar day required to complete the work.

**Article 3. Progress Payments**

On or about the first of each month, the Contractor shall make and certify an estimate of the amount and fair value of the work done, and may apply for partial payment therefore. The Contractor shall revise the estimate as the Owner may direct. Whenever the monthly estimate, after approval, shows that the value of the work completed during the previous month exceeds one percent (1%) of the total contract price, the Owner will process a pay request. The Owner will thereupon cause the amount therein to be paid to the Contractor. Such certification of work performed will authorize payment in an amount equal to the value of the Work completed less any sums that may be retained by the Owner.

Pursuant to NRS 338.515, Owner shall retain 10 percent (10%) of such estimated value of the Work done as part security for the fulfillment of the Contract until fifty percent (50%) of the Work required by the contract has been performed. When fifty percent (50%) of the Work has been completed to the satisfaction of the Owner, one-half (1/2) of the amount retained by Owner will be paid to Contractor. Thereafter, if in the opinion of the Owner, satisfactory progress is being made, Owner shall retain up to two and a half percent (2.5%) from monthly progress payments as part security for the fulfillment of the Contract until the Work required by the contract has been completed. No partial payment shall be made when, in the judgment of the Owner, the Work is not being diligently prosecuted by the Contractor.

The amount of payments withheld as provided herein shall be retained for a period of thirty (30) days from the date of filing of the Notice of Completion.

Owner shall pay to Contractor at the end of each quarter this Agreement is in effect, interest for the quarter on the amount withheld at a rate to be determined by Owner in accordance with NRS 338.515. If the amount due the Contractor pursuant to this provision for any quarter is less than Five Hundred Dollars (\$500.00), the Owner may withhold the interest until: (1) the end of a subsequent quarter after which the amount of interest due is Five Hundred Dollars (\$500.00) or more; (2) the end of the fourth consecutive quarter for which no interest has been paid to the Contractor; or (3) the final payment is due under the Agreement, whichever occurs first.

Contractor shall pay the Subcontractors progress payments and pay interest on amounts retained from said progress payments in accordance with the provisions of NRS 338.510 through NRS 338.535.

In accordance with NRS 244.320 and NRS 354.626, if, in any subsequent fiscal year, the County determines not to appropriate or budget funds for the purposes specified in this Contract, or the County determines that it is required to amend previous appropriations or budgeted amounts to eliminate or reduce funding the purposes in this Contract, this Contract will be terminated without penalty, charge, or sanction.

#### **Article 4. Acceptance and Final Payment**

As soon as practical following the completion of the Work, the Contractor shall make request by letter to the Owner for a final inspection and acceptance of the Work, and if, in Owner's opinion, all provisions of the Specifications and Agreement have been satisfied, Owner will cause a Notice of Completion to be filed with the County Recorder.

At the expiration of thirty (30) calendar days following the filing of the Notice of Completion, final payment shall be made as follows: After deducting all previous payments from the total value of the work, the remaining balance shall be paid, providing that no claims, liens or outstanding debts have been filed against the work, and the contract is not subject to arbitration or litigation between parties. Notwithstanding the expiration of thirty (30) calendar days, the Contractor, upon demand by the Owner, shall submit evidence satisfactory to the Owner that all payrolls, materials, bills, and other indebtedness relating to the work performed, have been paid before final payment is made.

#### **Article 5. The Contract Sum**

The Owner shall pay the Contractor, as full compensation for furnishing all materials and labor and doing all the Work in strict accordance with the Specifications and to the satisfaction of the Owner, the amount of **Three hundred ninety six thousand, four hundred forty four dollars (\$396,444)**. This sum is to be paid in the manner and under the conditions hereinbefore specified.

#### **Article 6. Performance and Payment Bonds**

The Contractor agrees that it will before this Contract becomes effective, furnish the Owner a Faithful Performance Bond and a Labor and Material Payment Bond, furnished by a company or

companies acceptable to the Owner, each in an amount equal to one hundred percent (100%) of the total Contract sum.

The Faithful Performance Bond shall be conditioned that the Work under the Contract shall be performed in accordance with the Specifications and terms of this Agreement and shall guarantee the Work for a period of one (1) year.

Labor and Material Payment Bond shall be conditioned to provide and secure payment for all material, provisions, provender and supplies, teams, trucks and other means of transportation used in, or upon or about the Work and for any labor done thereon.

**Article 7. The Contract Documents**

The following is an enumeration of the Contract Documents, which are attached hereto and fully incorporated by reference as part of the Contract:

1. DRAWINGS
2. NOTICE TO CONTRACTORS
3. INSTRUCTION TO BIDDERS
4. BID FORM
5. GENERAL CONTRACTOR BUSINESS FIRM INFORMATION
6. BID BOND
7. LIST OF SUBCONTRACTORS SUBMITTED WITH BID
8. TWO HOUR ONE PERCENT LIST OF RESPONSIBLE TRADES
9. AFFIDAVIT OF NON-COLLUSION
10. DEBARMENT CERTIFICATE
11. AGREEMENT
12. PERFORMANCE AND COMPLETION BOND
13. LABOR AND MATERIAL PAYMENT BOND
14. GENERAL PROVISIONS (STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, latest edition) by reference.
15. DETAILED SPECIFICATIONS
16. CDBG CERTIFICATIONS, SECTION 3, & SUPPLIMENTAL CONDITIONS
17. ATTACHMENT A - PUBLIC WORKS CONSTRUCTION INSURANCE SPECIFICATIONS
18. ATTACHMENT B – 2015 PREVAILING WAGE RATES – WASHOE COUNTY
19. ADDENDA ONE
20. ANY VALIDLY EXECUTED CHANGE ORDER, DIRECTIVES OR AMENDMENTS HERETO

**Article 8. Nondiscrimination:** In accordance with NRS 338.125, in connection with the performance of Work under this Contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, or age. This agreement not to discriminate includes, but is not limited to, decisions with respect to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Any violation of such provision

by the Contractor shall constitute a material breach of the Contract. Further, Contractor agrees to insert this nondiscrimination provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

**Article 9. Veteran's Preference**

Contractor agrees to give preference as provided in NRS 338.130. If this provision is not complied with, the Contract shall be void, and any failure or refusal to comply with this provision shall render the Contract void.

**Article 10. Prevailing Wage Rates**

In the event that the Contract sum is Two Hundred Fifty Thousand Dollars or more, Contractor agrees that he shall pay the prevailing wage rates in effect at the time of the bid and comply with NRS 338. The Contractor shall forfeit, as a penalty to the Owner, not less than \$20 nor more than \$50 for each calendar day or portion thereof that each workman employed:

- 1) Is paid less than the designated rate for any work done under the contract, by the contractor or any subcontractor under him.
- 2) Is not reported to the labor commission and the Owner.

In addition, Contractor shall keep accurate records showing the name, occupation and actual per diem wages and benefits paid to each workman employed by him in connection with this project. The records shall be open to inspection by the Owner, its officers and agents and at all reasonable hours.

**Article 11. Indemnification/Hold Harmless**

Washoe County has established specific indemnification and insurance requirements for agreements/contracts with Contractors to help assure that reasonable insurance coverage is maintained. Indemnification and hold harmless clauses are intended to assure that Contractors accept and are able to pay for the loss liability related to their activities. Attachment 1 is included by reference. All conditions and requirements identified in this Attachment shall be completed prior to the commencement of any work under this Agreement. The liability insurance must also cover Nevada Department of Transportation, its officers, officials, employees, and consultants.

If this provision is not complied with, the Contract shall be void, and any failure or refusal to comply with this provision shall render the Contract void.

**Article 12. Termination**

In addition to other provisions of this Agreement, Owner has the right to terminate the Agreement without cause at any time upon giving Contractor seven (7) days notice in writing. In the event the Agreement is terminated by Owner in accordance with this provision, Owner agrees to pay Contractor for all Work satisfactorily completed and for materials installed prior to the date of termination.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written

**WASHOE COUNTY**

\_\_\_\_\_  
Marsha Berkgigler, Chair  
Washoe County Commission

ATTEST:

\_\_\_\_\_  
Nancy Parent, Washoe County Clerk

**CONTRACTOR:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF NEVADA        )  
                                  ) SS:  
COUNTY OF WASHOE    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me, a Notary Public, \_\_\_\_\_, who acknowledged to me that he/she executed the foregoing Agreement.

\_\_\_\_\_  
NOTARY PUBLIC

## Exhibit A

# PUBLIC WORKS CONSTRUCTION/INDEMNIFICATION AND INSURANCE SPECIFICATIONS WEST 2<sup>ND</sup> AVE SIDEWALK PROJECT

## INTRODUCTION

COUNTY has established specific indemnification, insurance, and safety requirements for public works construction contracts to help assure that reasonable insurance coverage is purchased and safe working conditions are maintained. Indemnification and hold harmless clauses are intended to assure that CONTRACTOR accepts and is able to pay for the loss or liability related to its activities.

BIDDERS' ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT BIDDERS CONFER WITH THEIR RESPECTIVE INSURANCE CARRIERS OR BROKERS TO DETERMINE IN ADVANCE OF BID SUBMISSION THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS AS PRESCRIBED AND PROVIDED HEREIN. IF THERE ARE ANY QUESTIONS REGARDING THESE INSURANCE REQUIREMENTS, IT IS RECOMMENDED THAT THE AGENT/BROKER CONTACT THE COUNTY RISK MANAGER DIRECTLY AT (775) 328-2071. IF ANY APPARENT LOW BIDDER FAILS TO COMPLY STRICTLY WITH THE INSURANCE REQUIREMENTS, THAT BIDDER MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

## INDEMNIFICATION AGREEMENT

CONTRACTOR agrees to hold harmless, indemnify, and defend COUNTY, its officers, agents, employees, and volunteers from any loss or liability, financial or otherwise resulting from any claim, demand, suit, action, or cause of action based on bodily injury including death or property damage, including damage to CONTRACTOR'S property or injury to CONTRACTOR'S employee, caused by any action, either direct or passive, the omission, failure to act, or negligence on the part of CONTRACTOR, its employees, agents, representatives, or Subcontractors arising out of the performance of work under this Agreement by CONTRACTOR, or by others under the direction or supervision of CONTRACTOR.

CONTRACTOR must either defend COUNTY or, upon determination that the work performed by CONTRACTOR was negligent in any manner or that CONTRACTOR failed to perform any duty set forth in this Agreement, pay COUNTY'S costs related to the investigation and defense of any claim, demand, action, or cause of action.

If COUNTY'S personnel are involved in defending such actions, CONTRACTOR shall reimburse COUNTY for the time spent by such personnel at the actual cost incurred by COUNTY for such services.

In determining the nature of the claim against COUNTY, the incident underlying the claim shall determine the nature of the claim, notwithstanding the form of the allegations against COUNTY.

## GENERAL REQUIREMENTS

CONTRACTOR shall purchase Industrial Insurance, General Liability, Automobile Liability, Property Insurance and Professional Insurance as described below. The cost of such insurance shall be included in the CONTRACTOR'S bid.

## **INDUSTRIAL INSURANCE (Workers' Compensation)**

It is understood and agreed that there shall be no Industrial Insurance coverage provided for CONTRACTOR or any Subcontractor by COUNTY. CONTRACTOR agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the COUNTY to make any payment under this Agreement to provide COUNTY with a certificate issued by an insurer in accordance with NRS 616B.627 and with certificates of an insurer showing coverage pursuant to NRS 617.210 for CONTRACTOR and all subcontractors.

If CONTRACTOR or Subcontractor is unlicensed and is a sole proprietor, coverage for the sole proprietor must be purchased and evidence of coverage must appear on the Certificate of Insurance. Such requirement may be waived for a sole proprietor who does not use the services of any employees, subcontractors, or independent contractors and completes an Affirmation of Compliance pursuant to NRS 616B.627(2).

It is further understood and agreed by and between COUNTY and CONTRACTOR that CONTRACTOR shall procure, pay for, and maintain the above mentioned industrial insurance coverage at CONTRACTOR'S sole cost and expense.

Should CONTRACTOR be self-funded for Industrial Insurance, CONTRACTOR shall so notify COUNTY in writing prior to the signing of this Agreement. COUNTY reserves the right to approve said retentions, and may request additional documentation, financial or otherwise, for review prior to the signing of this Agreement.

## **MINIMUM LIMITS OF INSURANCE**

CONTRACTOR shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be increased to equal twice the required occurrence limit or revised to apply separately to each project or location.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage covering "Any Auto". No aggregate limits may apply.
3. Professional Errors and Omissions as required by Risk Manager, \$1,000,000.

## **DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the COUNTY Risk Management Division. COUNTY reserves the right to request additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retention and prior to executing the underlying agreement. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy, must be approved by the COUNTY Risk Manager prior to the change taking effect.

## **OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages
  - a. COUNTY, its officers, agents, employees, and volunteers are to be included as insureds as respects damages and defense arising from: activities performed by or on behalf of CONTRACTOR, including the insured's general supervision of CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, occupied, or used by CONTRACTOR;

or automobiles owned, leased, hired, or borrowed by the CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to the additional insureds nor shall the rights of the additional insureds be affected by the insured's duties after an accident or loss.

b. CONTRACTOR'S insurance coverage shall be primary insurance as respects COUNTY, its officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, employees, or volunteers shall be excess of CONTRACTOR'S insurance and shall not contribute with it in any way.

c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to COUNTY, its officers, agents, employees, or volunteers.

d. CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

## 2. Property Coverages

CONTRACTOR shall provide builders risk insurance on an "All Risk" basis on a policy form satisfactory to COUNTY. The limit of coverage will be the amount necessary to cover the bid value of any structures in the Contract or other value determined by COUNTY. CONTRACTOR shall provide boiler and machinery insurance coverage or other forms of property insurance as appropriate for the project. If the project is in a flood plain, COUNTY reserves the right to require flood coverage at CONTRACTOR'S expense. Losses paid under any property insurance policy or policies shall be paid directly to COUNTY by the insurer(s).

## 3. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, or non-renewed by either CONTRACTOR or by the insurer, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to COUNTY except for nonpayment of premium.

## **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a Best's rating of no less than A-: VII. COUNTY, with the approval of the Risk Manager, may accept coverage with carriers having lower Best's ratings upon review of financial information concerning CONTRACTOR and insurance carrier. COUNTY reserves the right to require that CONTRACTOR'S insurer be a licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted list.

## **VERIFICATION OF COVERAGE**

CONTRACTOR shall furnish COUNTY with certificates of insurance and with original endorsements affecting coverage required by this exhibit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All certificates and endorsements are to be addressed to the specific COUNTY contracting department and be received and approved by COUNTY before work commences.** COUNTY reserves the right to require complete certified copies of all required insurance policies at any time.

## **SUBCONTRACTORS**

CONTRACTOR shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

## **MISCELLANEOUS CONDITIONS**

1. CONTRACTOR shall be responsible for and remedy all damage or loss to any property, including property of COUNTY, caused in whole or in part by CONTRACTOR, any Subcontractor, or anyone employed, directed, or supervised by CONTRACTOR.
2. Nothing herein contained shall be construed as limiting in any way the extent to which CONTRACTOR may be held responsible for payment of damages to persons or property resulting from its operations or the operations of any Subcontractors under it.
3. In addition to any other remedies COUNTY may have if CONTRACTOR fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, COUNTY may, at its sole option:
  - a. Order CONTRACTOR to stop work under this Agreement and/or withhold any payments which become due CONTRACTOR here under until CONTRACTOR demonstrates compliance with the requirements hereof; or,
  - b. Terminate the Agreement.

## **SAFETY PROGRAM**

CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work.

CONTRACTOR shall take all necessary precautions for the safety of, and shall provide all necessary protection to prevent damage, injury, or loss to:

1. All employees on the work site and all other persons who may be affected thereby.
2. All the work, materials, and equipment to be incorporated therein, whether in storage on or off the site.
3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations, and others of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. He shall erect and maintain, as required by existing conditions and progress on the work, all necessary safeguards for safety and protection, including posting danger signs, other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities. CONTRACTOR shall comply with OSHA'S Hazard Communication Standards.

CONTRACTOR shall designate a responsible member of its organization at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR'S superintendent unless otherwise designated in writing by CONTRACTOR to the Owner and the Engineer.